

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY T. BROWN,

Petitioner,

v.

SUPERINTENDENT WAKEFIELD, et al.,

Respondents.

CIVIL ACTION

NO. 07-1098

ORDER

June 24, 2010

Pollak, J.

AND NOW, this 24th day of June, 2010, upon consideration of petitioner's Habeas Corpus Petition (Docket No. 1), the Report and Recommendation of Magistrate Judge Arnold C. Rapoport (Docket No. 77), respondents' Objections to Report and Recommendation (Docket Nos. 85-89), and the record herein, and for the reasons provided in the accompanying memorandum, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED AND ADOPTED** (except

for the four findings noted in the accompanying opinion);

2. The petition for a writ of habeas corpus is **CONDITIONALLY GRANTED**;

and it is **ORDERED** that petitioner be discharged from all custody resulting from his convictions and sentences in the Philadelphia Court of Common Pleas for

Criminal Case No. 98-10-0366 unless within 60 days of this order the Commonwealth retries the charges against petitioner.

3. A Certificate of Appealability is **NOT GRANTED** as the respondents may appeal as of right.

BY THE COURT

/s/ Louis H. Pollak
Pollak, J.